IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:23-CR-00089-1D

UNITED STATES OF AMERICA

MOTION FOR PRELIMINARY

v. : ORDER OF FORFEITURE

:

KARL LANDGREN

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, respectfully requests that the Court enter, pursuant to Fed. R. Crim. P. 32.2, the proposed Preliminary Order of Forfeiture filed herewith.

In support of this motion, the Government shows unto the Court the following:

1. On March 21, 2023, the defendant was charged in a Criminal Indictment with offenses in violation of 18 U.S.C. § 922(g)(1). The Indictment provided notice to the defendant that pursuant to 18 U.S.C. §§ 924(d) and 3665, the United States would seek to forfeit any property with the requisite nexus to the offenses charged as set forth more particularly in the Forfeiture Notice, including but not limited to the below-listed property. The government also provided notice that, in the event such property cannot be located, it would seek to recover substitute assets pursuant to 21 U.S.C. § 853(p).

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,		Application No.	Applicant(s)		
Office Askin Comment		09/698,118	UITENBROEK ET AL		
	Office Action Summary	Examiner	Art Unit		
·		Alexis Wachtel	1771		
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status					
1)🖂	Responsive to communication(s) filed on <u>05</u>	<u>August 2002</u> .			
2a)⊠	This action is FINAL. 2b) ☐ Ti	his action is non-final.			
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims					
4) 🖂	Claim(s) <u>1-10,14-23,26-37 and 39</u> is/are pen	ding in the application			
4a) Of the above claim(s) is/are withdrawn from consideration.					
5)	5) Claim(s) is/are allowed.				
6)	6) Claim(s) <u>1-10,14-23,26-37 and 39</u> is/are rejected.				
7)☐ Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/or election requirement.					
Application Papers					
9) The specification is objected to by the Examiner.					
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.					
If approved, corrected drawings are required in reply to this Office action.					
12) The oath or declaration is objected to by the Examiner.					
Priority under 35 U.S.C. §§ 119 and 120					
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).					
a) ☐ All b) ☐ Some * c) ☐ None of:					
	1. Certified copies of the priority documents have been received.				
	2. Certified copies of the priority documents have been received in Application No				
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).					
a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.					
Attachment(s)					
2) Notic 3) Infor	e of References Cited (PTO-892) se of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) 🔲 No	erview Summary (PTO-413) Paper No(s). lice of Informal Patent Application (PTO-1 er:		
U.S. Patent and Trademark Office PTO-326 (Rev. 04-01) Office Ac		Action Summary	Part of Pa	aper No. 6	

specific property, and directing the forfeiture of any substitute property if the government has met the statutory criteria." Fed. R. Crim. P. 32.2(b)(2)(A).

- 4. Pursuant to 18 U.S.C. § 924(d)(1), a defendant who is convicted of any violation of the Gun Control Act, the National Firearms Act, or any other violation of federal criminal law that involved or was perpetrated in whole or in part by the use of firearms or ammunition, shall forfeit any firearm or ammunition involved in or used in a knowing or willful commission of the offense. This civil forfeiture authority is made applicable to criminal proceedings by virtue of 28 U.S.C. § 2461(c). In addition, the Court has authority pursuant to 18 U.S.C. § 3665 to order the forfeiture of any firearms and ammunition that were found in the possession or under the immediate control of the defendant at the time of arrest.
- 5. Pursuant to the defendant's guilty plea, and the entire record of the case, the Government requests that the Court enter, as the statute requires, a Preliminary Order of Forfeiture regarding the following directly forfeitable property in which the defendant (or any combination of defendants in this case) has or had a forfeitable interest:

¹ Section 924(d)(1)'s forfeiture authority is to be construed broadly. *Smith v. United States*, 508 U.S. 223, 234-35 (1993). Most fundamentally, firearms and ammunition are "used" or "involved in" an offense whenever their use or possession is a necessary element of or serves as the basis for an underlying federal conviction, but they may also be forfeitable if they are employed, possessed, transported, traded, sold or acquired in the course of committing a crime, or are otherwise intended to facilitate a crime. *See id.*; *United States v. Cheeseman*, 600 F.3d 270, 278-79 (3d Cir. 2010).

Personal Property:

a) One Hatfield 12 Gauge Shotgun recovered from Karl Landgren on January 26, 2023, and any and all associated ammunition.

WHEREFORE, the Government respectfully requests the Court to enter the attached proposed Preliminary Order and Judgment of Forfeiture.

Respectfully submitted this 1st day of February 2024.

MICHAEL F. EASLEY, JR. United States Attorney

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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I certify that I have on this 1st day of February 2024 served a copy of the foregoing Motion for Preliminary Order of Forfeiture upon counsel electronically via ECF:

David E. Wicclair Federal Public Defender - EDNC Email: <u>david_wicclair@fd.org</u>

MICHAEL F. EASLEY, JR. United States Attorney

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